THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.7149 OF 1997

DATED: 12-02-2007

Between :

Sollugari Sailoo … Petitioner

And

The Joint Collector,
Medak District,
Sangareddy and 2 others. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.7149 OF 1997

ORDER :

This writ petition is filed seeking a declaration that the order passed by the 1st respondent – Joint Collector, Medak at Sangareddy dated 6-3-1997 thereby canceling the entries made in favour of the petitioner in the Record of Rights of Ganpur Village in respect of Ac.1-34 guntas of land situated in Sy.Nos.741 and 742 of Ganpur Village as arbitrary and illegal.

It is not in dispute that the land in question was originally owned by the 3rd respondent herein. The petitioner states that the 3rd respondent had sold the land to one T. Gopaiah, who, in turn, sold the same to one Rangachary in the year 1965 from whom the petitioner had purchased the said land under a Registered Sale Deed dated 8-4-1985.

In the meanwhile, it appears that in the year 1978 the 3rd respondent made an application before the Tahsildar, Gajwel under Section 6 of the A.P. (Agricultural Lands) Indebtedness Relief Act, 1977 (for short, 'Act 7 of 1977') seeking release of the land in question from Rangachary, the petitioner's vendor. His case was that the said land was mortgaged to T. Gopaiah in connection with the loan obtained by him about 36 years back and he being a landless poor the said debt shall be deemed to be discharged and the mortgage shall stand redeemed. The said application was dismissed by order dated 17-9-1980 and even the Appeal preferred by the 3rd respondent before the Revenue Divisional Officer, Siddipet was dismissed by order dated 20-4-1981 holding that the land in question was

sold by the 3rd respondent to Gopaiah in the year 1959 for a valid consideration.

Subsequently, the petitioner purchased the said land from Rangachary under a Registered Sale deed dated 8-4-1985 and mutations were effected in the Record of Rights by the Mandal Revenue Officer, Toopran Mandal, by proceedings dated 24-8-1992.

While so, it appears that the 3rd respondent made a fresh application dated 16-12-1996 before the 1st respondent – Joint Collector, Medak District at Sangareddy alleging that the patta granted in favour of the petitioner was illegal and liable to be set aside since the same was granted by the Mandal Revenue Officer without notice to him. Accordingly, he sought for restoration of the lands in his favour after cancelling the order of the Mandal Revenue Officer, dated 24-8-1992. The said application was taken up by the 1st respondent under Section 166-B of A.P. (Telangana Area) Land Revenue Act 1317 Fasli and after hearing both the parties the 1st respondent in exercise of powers conferred under Section 9 of A.P. Rights in Land and Pattdar Pass Books Act, 1971 by order dated 6-3-1997 ordered that the entries made in favour of the writ petitioner in the revenue records vide proceedings of the Mandal Revenue Officer dated 24-8-1992 shall stand cancelled. That apart, the Mandal Revenue Officer was directed to examine the case of the 3rd respondent under the provisions of Act 7 of 1977 and to take action to relinquish the debt as per law within one month. The said order passed by the 1st respondent dated 6-3-1997 is under challenge in this writ petition.

I have heard the learned Counsel for both the parties and perused the material on record.

It is to be noted that in the counter-affidavit filed on behalf of the respondents the fact that the application made by the 3rd respondent under Section 6 of Act 7 of 1977 was dismissed by order dated 17-9-

1980 and the same was confirmed on Appeal has not been denied. Admittedly, the said order has become final and the petitioner had purchased the land in question subsequently under a Registered Sale Deed dated 8-4-1985. Pursuant thereto, the amendment to the entries in the revenue records were effected under the provisions of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'ROR Act').

It is true that against the order of the competent authority under ROR Act effecting amendment in the record of rights a Revision lies under Section 9 of the ROR Act. However, in the case on hand, since admittedly the proceedings of the Mandal Revenue Officer dated 24-8-1992 which were under challenge before the 1st respondent were based on the earlier order passed under Section 6 of Act 7 of 1977, the 1st respondent is bound to take into consideration the orders already passed under the provisions of Act 7 of 1977 which have become final before setting aside the proceedings of the Mandal Revenue Officer dated 24-8-1992. A perusal of the impugned order dated 6-3-1997 shows that the 1st respondent failed to consider the earlier proceedings under Act 7 of 1977 which were decided against the 3rd respondent. The 1st respondent had not only ignored the said proceedings but also directed the Mandal Revenue Officer to take fresh action under Act 7 of 1977 to relinquish the debt incurred by the 3rd respondent within one month. Such a direction which virtually amounts to reviewing the earlier orders passed under Act 7 of 1977 is impermissible.

Pending this writ petition, this Court granted interim suspension of the impugned order dated 6-3-1997 and consequently no further steps were taken pursuant to the said order.

For the aforesaid reasons, I am of the opinion that the impugned order which was passed ignoring the earlier orders under Act 7 of 1977 is erroneous and liable to be set aside on that ground alone.

Accordingly, the impugned order is set aside and the Writ Petition is disposed of with a direction to the 1st respondent to pass appropriate orders afresh after taking into consideration the earlier orders passed under Act 7 of 1977 and after giving an opportunity to both the parties to produce fresh material, if any, in support of their respective claims. The petitioner is also granted liberty to raise objection with regard to the maintainability of the proceedings under Section 166-B of the A.P. (Telangana Area) Land Revenue Act 1317 Fasli.

It is made clear that the exercise in terms of the order of this Court shall be completed and appropriate orders be passed by the 1st respondent as expeditiously as possible preferably within a period of 3 months from the date of receipt of a copy of this order. Till such time, the Status Quo obtaining as on today as to the nature and possession of the land in question shall be maintained. No costs.

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G. ROHINI, J.

Dt. 12-02-2007

klp